SPEECH

OF

Stephen Arnold

HON. S. A. DOUGLAS, OF ILLINOIS,

AGAINST

THE ADMISSION OF KANSAS

UNDER

THE LECOMPTON CONSTITUTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 22, 1858.

WASHINGTON:
1858.

SPEECH.

The Senate having under consideration the bill for the admission of Kansas as a State into the Union—

Mr. DOUGLAS said:

Mr. PRESIDENT: I know not that my strength is sufficient to enable me to present to-night the views which I should like to submit upon the question now under consideration. My sickness for the last two weeks has deprived me of the pleasure of listening to the debates, and of an opportunity of reading the speeches that have been made; hence I shall not be able to perform the duty which might naturally have been expected of me, of replying to any criticisms that may have been presented upon my course, or upon my speeches, or upon my report. I must content myself with presenting my views upon the questions that are naturally brought up by the bill under consideration. I trust, however, that I may be pardoned for referring briefly, in the first instance, to my course upon the slavery question during the period that I have had a seat in the two Houses of Congress.

When I entered Congress, in 1843, I found upon the statute-book the evidence of a policy to adjust the slavery question and avoid sectional agitation by a geographical line drawn across the continent, separating free territory from slave territory. That policy had its origin at the beginning of this government, and had prevailed up to that time. In 1787, while the convention was in session, forming the Constitution of the United States, the Congress of the Confederation adopted the ordinance of 1787, prohibiting slavery in all the territory northwest of the Ohio river. The first Congress that assembled under the Constitution extended all the provisions of that ordinance, with the exception of the clause prohibiting slavery, to the territory south of that river, thus making the Ohio river the dividing line between free territory and slave territory, free labor and slave labor.

Subsequently, after the acquisition of Louisiana, when Missouri, a portion of that territory, applied for admission into the Union as a State, the same policy was carried out by adopting the parallel of 36° 30′ north latitude, from the western border of Missouri, as far westward as our territory then extended, as the barrier between free territory upon the one side, and slave territory upon the other.

Thus the question stood when I first entered the Congress of the United States. I examined the question when the proposition was made for the annexation of Texas, in 1845; and though I was unable to vindicate the policy of a geographical line upon sound political principles, still, finding that it had been in existence from the beginning of the government, had been acquiesced in up to that time by

the North and by the South, and that it had its origin in patriotic motives, I was anxious to abide by and perpetuate that policy rather than open the slavery agitation, and create sectional strife and heart-burning by attempting to restore the government to those great principles which seemed to me to be more consistent with the right of self-government, upon which our institutions rest. For this reason I cordially acquiesced, in 1845, in the insertion into the resolutions for the annexation of Texas, of a clause extending the Missouri compromise line through the Republic of Texas so far westward as the new acquisition might reach. I not only acquiesced in and supported the measure then, but I did it with the avowed purpose of continuing that line to the Pacific ocean, so soon as we should acquire the territory. Accordingly, in 1848, when we had acquired New Mexico, Utah, and California, from the Republic of Mexico, and the question arose in this body in regard to the kind of government which should be established therein, the Senate, on my motion, adopted a proposition to extend the Missouri compromise line to the Pacific ocean, with the same understanding with which it was originally adopted. The Journal of the Senate contains the following entry of that proposition:

"On motion of Mr. DOUGLAS to amend the bill, section fourteen, line one, by inserting after the word 'enacted:' 'That the line of 36° 30′ of north latitude, known as the Missouri compromise line, as defined by the eighth section of an act entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of said State into the Union on an equality with the original States, and to prohibit slavery in certain Territories," approved March 6, 1820, be, and the same is hereby, declared to extend to the Pacific ocean, and the said eighth section, together with the compromise therein effected, is hereby revived, and declared to be in full force and binding for the future organization of the Territories of the United States, in the same sense and with the same understanding with which it was originally adopted.'

"It was determined in the affirmative—yeas 32, nays 21.

"On motion of Mr. BALDWIN, the yeas and nays being desired by one-fifth of the senators present,

"Those who voted in the affirmative are—

"Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, Bright, Butler, Calhoun, Cameron, Davis of Mississippi, Dickinson, Douglas, Downs, Fitzgerald, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Metcalfe, Pearce, Sebastian, Spruance, Sturgeon, Turney, and Underwood.

"Those who voted in the negative are—

"Messrs. Allen, Atherton, Baldwin, Bradbury, Breese, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge, Felch, Green, Hale, Hamlin, Miller, Niles, Phelps, Upham, Walker, and Webster.

"So the proposed amendment was agreed to."

Thus it will be seen that the proposition offered by me to extend the Missouri compromise line to the Pacific ocean in the same sense and with the same understanding with which it was originally adopted, was agreed to by the Senate by a majority of twelve. When the bill was sent to the House of Representatives, that provision was stricken out, I think, by thirty-nine majority. By that vote the policy of separating free territory from slave territory, by a geographical line, was abandoned by the Congress of the United States. It is not my purpose on this occasion to inquire whether the policy was right or wrong; whether its abandonment at that time was wise or unwise; that is a question long since consigned to history, and I leave it to that tribunal to determine. I only refer to it now for the purpose of showing the view which I then took of the question. It will be seen, by reference to

the votes in the Senate and House of Representatives, that southern men in a body voted for the extension of the Missouri compromise line, and a very large majority of the northern men voted against it. The argument then made against the policy of a geographical line was one which upon principle it was difficult to answer. It was urged that if slavery was wrong north of the line, it could not be right south of the line; that if it was unwise, impolitic, and injurious on the one side, it could not be wise, politic, and judicious upon the other; that if the people should be left to decide the question for themselves on the one side, they should be entitled to the same privilege on the other. I thought these arguments were difficult to answer upon principle. The only answer urged was, that the policy had its origin in patriotic motives, in fraternal feeling, in that brotherly affection which ought to animate all the citizens of a common country; and that, for the sake of peace and harmony and concord, we ought to adhere to and preserve that policy. Under these considerations, I not only voted for it, but moved it, and lamented as much as any man in the country its failure; because that failure precipitated us into a sectional strife and agitation, the like of which had never before been witnessed in the United States, and which alarmed the wisest, the purest, and the best patriots in the land for the safety of the Republic.

You all recollect the agitation which raged through this land from 1848 to 1850, and which was only quieted by the compromise measures of the latter year. You all remember how the venerable sage and patriot of Ashland was called forth from his retirement for the sole purpose of being able to contribute, by his wisdom, by his patriotism, by his experience, by the weight of his authority, something to calm the troubled waters, and restore peace and harmony to a distracted country. That contest waged fiercely, almost savagely, threatening the peace and existence of the Union, until at last, by the wise counsels of a Clay, a Webster, and a Cass, and the other leading spirits of the country, a new plan of conciliation and settlement was agreed upon, which again restored peace to the Union. The policy of a geographical line separating free territory from slave territory was abanboned by its friends only because they found themselves without the power to adhere to it, and carry it into effect in good faith. If that policy had been continued, if the Missouri line had been extended to the Pacific ocean, there would have been an end to the slavery agitation forever—for on one side as far west as the continent extended slavery would have been prohibited, while on the other, by legal implication, it would have been taken for granted that the institution of slavery would have existed and continued, and emigration would have sought the one side of the line or the other, as it preferred the one or the other class of domestic and social institutions. I confess, sir, that it was my opinion then, and is my opinion now, that the extension of that line would have been favorable to the South, so far as any sectional advantage would have been obtained, if it be an advantage to any section to extend its peculiar institutions. Southern men seemed so to consider it, for they voted almost unanimously in favor of that policy of prohibiting slavery on one side, contented with a silent implication in its favor on the other. Northern representatives and senators

seemed to take the same view of the subject, for a large majority of them voted against this geographical policy, and in lieu of it insisted upon a law prohibiting slavery everywhere within the Territories of the United States, north as well as south of the line; and not only in the Territories, but in the dock yards, the navy yards, and all other public places over which the Congress of the United States had exclusive jurisdiction.

Such, sir, was the state of public opinion, as evidenced by the acts of representatives and senators on the question of a geographical line by the extension of the Missouri compromise, as it is called, from 1848 to 1850, which caused it to be abandoned, and the compromise measures of 1850 to be substituted in its place. Those measures are familiar to the Senate and to the country. They are predicated upon the abandonment of a geographical line, and upon the great principle of self-government in the Territories, and the sovereignty of the States over the question of slavery, as well as of over all other matters of local and domestic concern. Inasmuch as the time-honored and venerated policy of a geographical line had been abandoned, the great leaders of the Senate, and the great Commoners in the other House of Congress, saw no other remedy but to return to the true principles of the Constitution—to those great principles of self-government and popular sovereignty upon which all free institutions rest—and to leave the people of the Territories and of the States free to decide the slavery question, as well as all other questions, for themselves.

Mr. President, I am one of those who concurred cheerfully and heartily in this new line of policy marked out by the compromise measures of 1850. Having been compelled to abandon the former policy of a geographical line, for want of ability to carry it out, I joined with the great patriots to whom I have alluded, to calm and quiet the country by the adoption of a policy more congenial to my views of free institutions, not only for the purpose of healing and harmonizing the strife and controversy which then existed, but for the further purpose of providing a rule of action in all time to come which would avoid sectional strife and sectional controversy in the future. It was one of the great merits of the compromise measures of 1850—indeed, it was their chief merit—that they furnished a principle, a rule of action which should apply everywhere, north and south of 36° 30′, not only to the territory which we then had, but to all that we might afterwards acquire, and thus, if that principle was adhered to, prevent any strife, any controversy, any sectional agitation in the future. The object was to localize, not to nationalize, the controversy in regard to slavery, to make it a question for each State and each Territory to decide for itself, without any other State, or any other Territory, or the federal government, or any outside power, interfering, directly or indirectly, to influence or control the result.

My course upon those measures created, at first, great excitement, and I may say great indignation, at my own home, so that it became necessary for me to go before the people and vindicate my action. I made a speech at Chicago upon my return home, in which I stated the principles of the compromise measures of 1850 as I have now stated them here, and vindicated them to the best of my ability. It

is enough to say that, upon sober reflection, the people of Illinois approved the course which I then pursued; and when the legislature came together, they passed, with great unanimity, resolutions endorsing emphatically the principle of those measures.

In 1854, when it became necessary to organize the Territories of Kansas and Nebraska, the question arose, what principle was to apply to those Territories? It was true they both lay north of the line of 36° 30′; but it was also true that, four years before, the policy of a geographical line had been abandoned and repudiated by the Congress of the United States, and in lieu of it the plan of leaving each Territory free to decide the question for itself had been adopted. I felt it to be my duty, as a senator from the State of Illinois, and I will say as a member of the democratic party, to adhere in good faith to the principles of the compromise measures of 1850, and to apply them to Kansas and Nebraska, as well as to the other Territories. To show that I was bound to pursue this course, it is only necessary to refer to the public incidents of those times. In the presidential election of 1852, the great political parties of that day each nominated its candidate for the presidency upon a platform which endorsed the compromise measures of 1850, and both pledged themselves to carry them out in good faith in all future times in the organization of all new Territories. The whig party adopted that platform at Baltimore, and placed General Scott, their candidate, upon it. The democratic party adopted a platform identical in principle, so far as this question was concerned, and elected General Pierce President of the United States upon it. Thus the whig party and the democratic party each stood pledged to apply this principle in the organization of all new Territories. Not only was I as a democrat—as a senator who voted for their adoption—bound to apply their principle to this case; but, as a senator from Illinois, I was under an imperative obligation, if I desired to obey the will and carry out the wishes of my constituents, to apply the same principle. To show the views of my legislature upon that subject, I will read one resolution, which was passed at the session of 1851:

"*Resolved*, That our liberty and independence are based upon the right of the people to form for themselves such a government as they may choose; that this great privilege, the birthright of freemen, the gift of Heaven, secured to us by the blood of our ancestors, ought to be extended to future generations; and that no limitation ought to be applied to this power in the organization of any Territory of the United States, of either a territorial government or a State constitution: *Provided*, The government so established shall be republican, and in conformity with the Constitution."

That resolution was adopted by a vote of sixty-one in the affirmative and only four in the negative. I undertake to say that resolution spoke the sentiments of the people of Illinois; and I, as their senator, was only carrying out their sentiments and wishes by applying this principle to the Territories of Kansas and Nebraska. This principle was appled in that bill in the precise language of the compromise measures of 1850, except the addition of a clause removing from the statute-book the eighth section of the Missouri act, as being inconsistent with that principle, and declaring that it was the true intent and meaning of the act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people

thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.

Now, sir, the question arises whether the Lecompton constitution, which has been presented here for our acceptance, is in accordance with this principle embodied in the compromise measures, and clearly defined in the organic act of Kansas. Have the people of Kansas been left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution? Is the Lecompton constitution the act and deed of the people of Kansas? Does it embody their will? If not, you have no constitutional right to impose it upon them. If it does embody their will, if it is their act and deed, you have, then, a right to waive any irregularities that may have occurred, and receive the State into the Union. This is the main point, in my estimation, upon which the vote of the Senate and of the House of Representatives ought to depend in the decision of the Kansas question. Now, is there a man within the hearing of my voice who believes that the Lecompton constitution does embody the will of a majority of the *bona fide* inhabitants of Kansas? Where is the evidence that it does embody that will?

We are told that it was made by a convention assembled at Lecompton in September last, and has been submitted to the people for ratification or rejection. How submitted? In a manner that allowed every man to vote for it, but precluded the possibility of any man voting against it. We are told that there is a majority of about five thousand five hundred votes recorded in its favor under these circumstances. I refrain from going into the evidence which has been taken before the commission recently held in Kansas to show what proportion of these votes were fraudulent; but, supposing them all to have been legal, *bona fide* residents, what does that fact prove, when the people on that occasion were allowed only to vote for, and could not vote against, the constitution? On the other hand, we have a vote of the people in pursuance of law, on the 4th of January last, when this constitution was submitted by the legislature to the people for acceptance or rejection, showing a majority of more than ten thousand against it. If you grant that both these elections were valid, if you grant that the votes were legal and fair, yet the majority is about two to one against this constitution. Here is evidence to my mind conclusive that this Lecompton constitution is not the embodiment of the popular will of Kansas. How is this evidence to be rebutted? By the assumption that the election on the 21st of December, where the voters were allowed to vote for it, but not against it, was a legal election; and that the election on the 4th of January, where the people were allowed to vote for or against the constitution as they chose, was not a legal and valid election.

Sir, where do you find your evidence of the legality of the election of the 21st of December? Under what law was that election held? Under no law, except the decree of the Lecompton convention. Did that convention possess legislative power? Did it possess any authority to prescribe an election law? That convention possessed only such power as it derived from the territorial legislature in the act authorizing the assembling of the convention; and I submit that the

same authority, the same power, existed in the territorial legislature to order an election on the 4th of January as existed in the convention to order one on the 21st of December. The legislature had the same power over the whole subject on the 17th of December, when it passed a law for the submission of the constitution to the people, that it had on the 19th of February, when it enacted the statute for the assembling of the convention.

The convention assembled under the authority of the territorial legislature alone, and hence was bound to conduct all its proceedings in conformity with, and in subordination to, the authority of the legislature. The moment the convention attempted to put its constitution into operation against the authority of the territorial legislature, it committed an act of rebellion against the government of the United States. But we are told by the President that at the time the territorial legislature passed the law submitting the whole constitution to the people, the Territory had been prepared for admission into the Union as a State. How prepared? By what authority prepared? Not by the authority of any act of Congress—by no other authority than that of the territorial legislature; and clearly a convention assembled under that authority could do no act to subvert the territorial legislature which brought the convention into existence.

But gentlemen assume that the organic act of the Territory was an enabling act; that it delegated to the legislature all the power that Congress had to authorize the assembling of a convention. Although I dissent from this doctrine, I am willing, for the sake of the argument, to assume it to be correct; and if it be correct, to what conclusion does it lead us? It only substitutes the territorial legislature for the authority of Congress, and gives validity to the convention; and therefore the legislature would have just the same right that Congress otherwise would have had, and no more, and no less. Suppose now that Congress had passed an enabling act, and a convention had been called, and a constitution framed under it; but three days before that constitution was to take effect, Congress should pass another act repealing the convention law, and submitting the constitution to the vote of the people: would it be denied that the act of Congress submitting the constitution would be a valid act? If Congress would have authority thus to interpose, and submit the constitution to the vote of the people, it clearly follows that if the legislature stood in the place of Congress, and was vested with the power which Congress had on the subject, it had the same right to interpose, and submit this constitution to the people for ratification or rejection.

Therefore, sir, if you judge this constitution by the technical rules of law, it was voted down by an overwhelming majority of the people of Kansas, and it became null and void; and you are called upon now to give vitality to a void, rejected, repudiated constitution. If, however, you set aside the technicalities of law, and approach it in the spirit of statesmanship, in the spirit of justice and of fairness, with an eye single to ascertain what is the wish and the will of that people, you are forced to the conclusion that the Lecompton constitution does not embody that will.

Sir, we have heard the argument over and over again, that the Lecompton convention were justified in withholding this constitution

from submission to the people, for the reason that it would have been voted down if it had been submitted to the people for ratification or rejection. We are told that there was a large majority of free State men in the Territory, who would have voted down the constitution if they had got a chance, and that is the excuse for not allowing the people to vote upon it. That is an admission that this constitution is not the act and deed of the people of Kansas; that it does not embody their will; and yet you are called upon to give it force and vitality; to make it the fundamental law of Kansas with a knowledge that it is not the will of the people, and misrepresents their wishes. I ask you, sir, where is your right, under our principles of government, to force a constitution upon an unwilling people? You may resort to all the evidence that you can obtain, from every source that you please, and you are driven to the same conclusion. (The confusion created by the large number of persons in the galleries endeavoring to find places where they could see and hear, and others pressing in, was so great that the honorable senator could hardly make himself heard.)

Mr. STUART. I am aware of the very great difficully of preserving order; but still I think that, by a suggestion from the Chair, gentlemen in the galleries and about the lobbies would do it. They can do it if they will. The honorable senator from Illinois speaks with difficulty, at any rate, and I hope there will be sufficient order preserved that he may be heard.

The VICE PRESIDENT. The Chair has observed a good deal of disorder about the central door of the main gallery. It is quite obvious that there are as many persons there as can stand now, and therefore it would be well for gentlemen not to press in. They are respectfully requested to preserve order and decorum.

Mr. DOUGLAS. If further evidence was necessary to show that the Lecompton constitution is not the will of the people of Kansas, you find it in the action of the legislature of that Territory. On the first Monday in October an election took place for members of the territorial legislature. It was a severe struggle between the two great parties in the Territory. On a fair test, and at the fairest election, as is conceded on all hands, ever held in the Territory, a legislature was elected. That legislature came together and remonstrated, by an overwhelming majority, against this constitution, as not being the act and deed of that people, and not embodying their will. Ask the late governor of the Territory, and he will tell you that it is a mockery to call this the act and deed of the people. Ask the secretary of the Territory, ex-governor Stanton, and he will tell you the same thing. I will hazard the prediction, that if you ask governor Denver to-day, he will tell you, if he answers at all, that it is a mockery, nay, a crime, to attempt to enforce this constitution as an embodiment of the will of that people. Ask, then, your official agents in the Territory; ask the legislature elected by the people at the last election; consult the poll-books on a fair election held in pursuance of law; consult private citizens from there; consult whatever sources of information you please, and you get the same answer—that this constitution does not embody the public will, is not the act and deed of the people, does not represent their wishes; and hence I deny your

right, your authority, to make it their organic law. If the Lecompton constitution ever becomes the organic law of the State of Kansas, it will be the act of Congress that makes it so, and not the act or will of the people of Kansas.

But we are told that it is a matter of but small moment whether the constitution embodies the public will or not, because it can be modified and changed by the people of Kansas at any time as soon as they are admitted into the Union. Sir, it matters not whether it can be changed or cannot be changed, so far as the principle involved is concerned. It matters not whether this constitution is to be the permanent fundamental law of Kansas, or is to last only a day, or a month, or a year; because, if it is not their act and deed you have no right to force it upon them for a single day. If you have the power to force it upon this people for one day, you may do it for a year, for ten years, or permanently. The principle involved is the same. It is as much a violation of fundamental principle, a violation of popular sovereignty, a violation of the Constitution of the United States, to force a State constitution on an unwilling people for a day, as it is for a year or for a longer time. When you set the example of violating the fundamental principles of free government, even for a short period, you have made a precedent that will enable unscrupulous men in future times, under high partisan excitement, to subvert all the other great principles upon which our institutions rest.

But, sir, is it true that this constitution may be changed immediately by the people of Kansas? The President of the United States tells us that the people can make and unmake constitutions at pleasure; that the people have no right to tie their own hands and prohibit a change of the constitution until 1864, or any other period; that the right of change always exists, and that the change may be made by the people at any time in their own way, at pleasure, by the consent of the legislature. I do not agree that the people cannot tie their own hands. I hold that a constitution is a social compact between all the people of the State that adopts it; between each man in the State, and every other man; binding upon them all; and they have a right to say it shall only be changed at a particular time and in a particular manner, and then only after such and such periods of deliberation. Not only have they a right to do this, but it is wise that the fundamental law should have some stability, some permanency, and not be liable to fluctuation and change by every ebullition of passion.

This constitution provides that, after the year 1864 it may be changed by the legislature by a two-thirds vote of each house, submitting to the people the question whether they will hold a convention for the purpose of amending the constitution. I hold that, when a constitution provides one time of change, by every rule of interpretation it excludes all other times; and when it prescribes one mode of change, it excludes all other modes. I hold that it is the fair intendment and interpretation of this constitution that it is not to be changed until after the year 1684, and then only in the manner prescribed in the instrument. If it were true that this constitution was the act and deed of the people of Kansas—if it were true that it embodied their will—I hold that such a provision against change for a sufficient

length of time to enable the people to test its practical workings would be a wise provision, and not liable to objection. That people are not capable of self-government who cannot make a constitution under which they are willing to live for a period of six years without change. I do not object that this constitution cannot be changed until after 1864, provided you show me that it be the act and deed of the people, and embodies their will now. If it be not their act and deed, you have no right to fix it upon them for a day—not for an hour—not for an instant; for it is a violation of the great principle of free government to force it upon them.

The President of the United States tells us that he sees no objection to inserting a clause in the act of admission declaratory of the right of the people of Kansas, with the consent of the first legislature, to change this constitution, notwithstanding the provision which it contains, that it shall not be changed until after the year 1864. Where does Congress get power to intervene and change a provision in the constitution of a State? If this constitution declares, as I insist it does, that it shall not be changed until after 1864, what right has Congress to intervene, to alter, or annul that provision prohibiting alteration? If you can annul one provision, you may another, and another, and another, until you have destroyed the entire instrument. I deny your right to annul; I deny your right to change, or even to construe the meaning of a single clause of this constitution. If it be the act and deed of the people of Kansas, and becomes their fundamental law, it is sacred; you have no right to touch it, no right to construe it, no right to determine its meaning; it is theirs, not yours. You must take it as it is, or reject it as a whole; but put not your sacriligious hands upon the instrument if it be their act and deed. Whenever this government undertakes to construe State constitutions and to recognize the right of the people of a State to act in a different manner from that provided in their constitution; whenever it undertakes to give a meaning to a clause of a State constitution, which that State has not given; whenever the government undertakes to do that, and its right is acknowledged, farewell to State rights, farewell to State sovereignty; your States become mere provinces, dependencies, with no more independence and no more rights than the counties of the different States. This doctrine, that Congress may intervene, and annul, construe, or change a clause in a State constitution, subverts the fundamental principles upon which our complex system of government rests.

Upon this point, the Committee on Territories, in the majority report, find themselves constrained to dissent from the doctrine of the President. They see no necessity, and, if I understand the report, no legal authority on the part of Congress to intervene and construe this or any other provision of the constitution; but the distinguished gentleman who makes the report from the Committee on Territories has, in his own estimation, obviated all objection by finding a clause in the constitution of Kansas, which he thinks remedies the whole evil. It is in the bill of rights, and is in these words:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an in-

alienable and ndefeasible right to alter, reform, or abolish their form of government in such a manner as they may think proper."

The VICE PRESIDENT. The senator from Illinois will pause for a moment. The Sergeant-at-arms will go up and close the centre door of the ladies' gallery; shut it, and keep it shut, so as to admit no more persons there.

Mr. DOUGLAS. There appears to be some difficulty at the southern door of the eastern gallery, and I hope the Chair will direct that to be closed.

The VICE PRESIDENT. The Chair has sent an officer to that door to close it, and preserve quiet there. The senator from Illinois will proceed.

Mr. DOUGLAS. The senator from Missouri, who makes the report of the majority of the committee, is under the impression that this clause in the bill of rights overrides and changes the provision in the Lecompton constitution, which declares that there shall be no change until after 1864, and then only by a two-thirds vote of the legislature. How does he make that override the prohibition? By taking the clause in the bill of rights, which is intended only to assert abstract rights that may be exercised by the people when driven to the last resort, to wit: to revolution. That is an abstract principle, intended to assert the right in the people of Kansas to change their form of government, under the same law, the same authority that our ancestors resisted British power, and overthrew the British authority upon this continent. It was under that principle that our fathers threw the tea into Boston harbor. It was under that principle that our fathers burnt up the stamps, and sent the stamp agents out of the country. It was under that principle that our fathers resorted to arms to maintain the right to change their form of government from a monarchy to a republic—change by revolution, because they had arrived at the point where resistance was a less evil than submission. That the people have a right to appeal to the God of arms to overthrow the power that oppresses them, and change their form of government whenever their oppressions are intolerable, and resistance is a less evil than submission, is a great truth that no republican, no democrat, no citizen of a free country, should ever question. But, sir, that clause was never intended to furnish the lawful mode by which this constitution could be changed, for the reason that the same instrument points out a different mode than the one therein asserted; and when a specific mode is prescribed, and time is to elapse before that mode can be resorted to, that excludes the idea that it can be done in any other mode, or at a prior time.

But, sir, this article from the bill of rights proves entirely too much. The President says you may put into this bill a clause recognizing the right of the people of Kansas to change their constitution by the consent of the first legislature. What does the bill of rights say? That it is the inalienable and indefeasible right of the people, at all times, to alter, abolish, or reform their form of government in such manner as they may think proper, not in such manner as the legislature shall prescribe, not at such time as the legislative authority or the existing government may provide, but in such manner as the

people think proper in town meeting, in convention, through the legislature, in popular assemblages, at the point of the bayonet, in any manner the people themselves may determine. That is the right and the nature of the right authorized by this bill of rights. It is the revolutionary remedy, not the lawful mode. There are two modes of changing the constitution of a State; one lawful, the other revolutionary. The lawful mode is the one prescribed in the instrument. The revolutionary mode is one in violation of the instrument. The revolutionary mode may be peaceful, or may be forcible; that depends on whether there is resistance. If a people are unanimous in favor of a change, if nobody opposes it, the revolutionary means may be a peaceful remedy; but if, in the progress of the revolution, while you are making the change, you meet with resistance, then it becomes civil war, treason, rebellion, if you fail, and a successful revolution if you succeed.

I say, then, the mode pointed out in the bill of rights is the revolutionary mode, and not the lawful means provided in the instrument; but if the Committee on Territories be right in saying that this is a lawful mode, then the recommendation of the President, that Congress should recognize the right to do it by the first legislature, violates this constitution. Why? The President recommends us to recognize their rights through the legislature, and in that mode alone. The bill of rights says the people shall do it in such manner as they please. If the construction given by the Committee on Territories be right, you dare not vote for the President's proposition to recognize the right of the first legislature to do it, for you give a construction to the instrument in violation of its terms.

Mr. HAMMOND. Will the senator from Illinois allow me to interrupt him a moment?

Mr. DOUGLAS. With a great deal of pleasure.

Mr. HAMMOND. I understood the senator to say just now that Congress had no right to look into the constitution of a State and place a construction upon it. If that be true, I would inquire of the senator from Illinois, how is Congress to know whether a constitution is republican or not? If it be true, I would inquire of him, further, why is he here now discussing and placing a construction upon the constitution of Kansas?

Mr. DOUGLAS. I will take great pleasure in answering the gentleman from South Carolina. I have a right to look into this constitution to see whether, in my opinion, it is republican. I have this right to look at it only for the purpose of regulating my vote. The judgment on which I base my vote is one binding on nobody but myself. I am talking now, not on forming a construction by which members of Congress are to govern themselves, but I am speaking of your right to place a construction on this constitution binding upon the people and government of Kansas. Give me the power to construe the constitution of Kansas authoritatively, and then I have the power to change it, to alter it, to annul it, to make it mean what I please, and not what they mean.

Mr. HAMMOND. I should have thought that the senator would have denounced the attempt to construe the constitution, and left the mat-

ter there, after having asserted that no such power exists; but when he goes on to construe it himself, he is inconsistent with his first proposition that there is no right to construe it.

Mr. DOUGLAS. No, sir, I deny the right of Congress to construe it authoritatively for the people of Kansas. I am not denying the right of the senator from of South Carolina to put his own construction upon it. I am not denying the right of each senator here to make up his own mind in regard to it. It is the duty of each senator here to do that for himself; but that is only to satisfy his own judgment and his own conscience in regulating his vote upon the question. The point I am arguing is, whether this Congress has any power, by a rule of construction, to change the constitution of a State, and make its construction binding on the authorities and people of that State. I repeat, if this Congress can exercise that power, there is an end of State rights, an end of State sovereignty; this government becomes a consolidated government, an empire, a central power, with provinces and dependencies, and ceases to be a confederation of sovereign and independent States. I am arguing against the propriety of Congress acceding to the recommendation of the President to strike that fatal blow at the severeignty of the States of this Union.

But, sir, my friend from Ohio, who cannot accede quite to this doctrine of the President any more than the Committee on Territories can, proposes to remedy this matter in a different way. He has offered an amendment, which I ask the Clerk to read.

The Clerk read the following amendment, intended to be proposed by Mr. PUGH, to the amendment intended to be proposed by Mr. GREEN to the bill (S. No. 161) "for the admission of the State of Kansas into the Union: At the end thereof add the following section:

"SEC. —. *And be it further enacted*, That the admission of the States of Minnesota and Kansas into the Union, by this act, shall never be so construed as to deny, limit, or otherwise impair, the right of the people of the said States, with the assent of their legislatures, severally, at all times, to alter, reform, or abolish their form of government, in such manner as they may think proper, so that the same be still republican and in accordance with the Constitution of the United States."

Mr. DOUGLAS. I am at a loss to know what object my friend from Ohio expects to accomplish by this proviso, that nothing in the act of admission shall be construed to deny, limit, or otherwise impair, the right of the people to change their constitution. Who ever dreamed that there was anything in the act of admission which could be so construed? It is not the act of admission to which we are alluding; it is the provision in this constitution which says it shall not be changed until after 1864.

Nobody pretends that you can put anything in the act of admission which would limit this right. What I am denying is your right to put anything in the act of admission either to limit or extend or construe the constitution. Nobody pretends that this act of admission affects this point at all. The objection, if it be an objection, is in the constitution itself, not in the act of admission.

Then what legal effect would the amendment of the senator from Ohio have, if it should be adopted? I presume no one pretends that it would have any legal effect. Is there a senator here who pretends

that the adoption of the amendment of the senator from Ohio would confer any power or authority on the people of Kansas to change their constitution which they would not have without it? I am informed the senator from Ohio said, in his speech in explanation of it, that it did not confer any right which the people would not otherwise have. Then why adopt it? I can conceive of but one motive, and that is to lead the people to infer that they have secured a right by that proviso which they really have not got—to lead them to suppose that they have gained an advantage which in reality they do not possess. Is that the object? Is it the object to obviate an objection, and yet in fact to leave the objection in full force? Why, I ask, is it proposed to put that amendment in the bill if it has no legitimate effect—if it does not give the people any right, any privilege, which they would not possess without it? Perhaps I may be asked, on the contrary, what is the objection to putting it in? It may be said it is only the expression of the individual opinion of the members of Congress. I will tell you my objection to putting this clause in the act of admission. I object to inserting any clause in the act of admission that expresses any opinion, one way or the other, in respect to the propriety of any provision in the constitution. If you may pronounce judgment on the propriety of one clause, although it has no legal effect to change it, you may on the propriety of another clause. Suppose, for instance, the senator from New York should offer an amendment that nothing contained in this act of admission shall be construed to sanction or tolerate the right to hold property in man; or that nothing herein contained shall be construed to authorize or permit slaveholding in said State; or should propose to insert an opinion that slaveholding was a crime; would southern men think there was no objection to it because it had no legal effect? Are you willing that Congress shall set the example of inserting, in acts of admission, clauses that pronounce judgment against the domestic institutions of a State? Are you willing that a Congress composed of a majority of free-State men shall put clauses in an act of admission condemning slaveholding? Or, if we were a minority, would we be willing that you should put a clause in an act of admission condemning our free institutions?

Now, sir, I hold that Congress has no right to pronounce its opinion even upon the propriety of any local or domestic institution of any State of this Union. Each State is sovereign, with the unlimited and unrestricted power and right to manage its local and internal concerns to suit itself, subject only to the limitations of the Constitution of the United States. I warn gentlemen that when, in order to catch a little popular favor, they set the example of backing up a vote in favor of this enormous fraud by putting a clause in the bill having no legal effect, but expressing opinions upon the propriety of this or that clause of a State constitution, they are setting an example that may return upon them in a way that will not be pleasant. I protest against Congress interfering either to annul or construe, or express opinions upon the propriety of this clause or that clause of the constitution. I repeat, if the constitution be the act and deed of the people of Kansas, and if its provisions are not in violation of the Constitution of the United

States, that people had a right to put them there; and you have no right to touch them or to pronounce judgment upon them.

Mr. President, I come back to the question: ought we to receive Kansas into the Union with the Lecompton constitution? Is there satisfactory evidence that it is the act and deed of that people? that it embodies their will? Is the evidence satisfactory that the people of that Territory have been left perfectly free to form and regulate their domestic institutions in their own way? I think not. I do not acknowledge the propriety, or justice, or force of that special pleading which attempts, by technicalities, to fasten a constitution upon a people which, it is admitted, they would have voted down if they had had a chance to do so, and which does not embody their will. Let me ask gentlemen from the south, if the case had been reversed, would they have taken the same view of the subject? Suppose it were ascertained, beyond doubt or cavil, that three-fourths of the people of Kansas were in favor of a slaveholding State, and a convention had been assembled by just such means and under just such circumstances as brought the Lecompton convention together; and suppose that when they assembled it was ascertained that three-fourths of the convention were free-soilers, while three-fourths of the people were in favor of a slaveholding State; suppose an election took place in the Territory during the sitting of the convention, which developed the fact that the convention did not represent the people; suppose that convention of free-soilers had proceeded to make a constitution and allowed the people to vote for it, but not against it, and thus forced a free-soil constitution upon a slaveholding people against their will—would you, gentlemen from the south, have submitted to the outrage? Would you have come up here and demanded that the free-soil constitution—adopted at an election where all the affirmative votes were received, and all the negative votes rejected, for the reason that it would have been voted down if the negative votes had been received—should be accepted? Would you have said that it was fair, that it was honest, to force an abolition constitution on a slaveholding people against their will? Would you not have come forward and have said to us that you denied that it was the embodiment of the public will, and demanded that it should be sent back to the people to be voted upon, so as to ascertain the fact? Would you not have said to us that you were willing to live up to the principle of the Nebraska bill, to leave the people perfectly free to form such institutions as they please; and that if we would only send that constitution back and let the people have a fair vote upon it, you would abide the result? Suppose we, being a northern majority, had said to you: "No; we have secured a sectional advantage and we intend to hold it; and we will force this constitution upon an unwilling people, merely because we have the power to do it;" would you have said that was fair?

Mr. HAMMOND. Will the senator allow me to answer him?

Mr. DOUGLAS. Certainly.

Mr. HAMMOND. As the senator looked towards me in asking his question, I will undertake, though without authority, to answer for the slaveholding community. If, having had the power to establish a slaveholding constitution, we had refrained from exercising it, and

those in favor of a free State constitution had established one to that effect, I say that the slaveholders would have submitted to it, until through the forms of constitutional law they could have altered it.

Mr. DOUGLAS. The senator assumes what I did not certainly intend, when he says that I looked at him. I was propounding the question, however, to any senator, and am as willing that the senator from South Carolina should reply as any other. He assumes as true, for the purposes of his answer, the very fact that is denied—that they had the power.

Mr. HAMMOND. Asserted on all hands, sir.

Mr. DOUGLAS. What?

Mr. HAMMOND. Asserted that there was a free State majority when the convention was elected.

Mr. BROWN. The senator from Illinois asserted it to-night.

Mr. DOUGLAS. Yes; and I assert now that there was a free State majority; and I assert, also, that one half the counties of the Territory were disfranchised, and not allowed to vote at the election of delegates. (Applause in the galleries.)

Mr. HAMMOND. That has been answered over and over again——

The VICE PRESIDENT. The senator from South Carolina will pause until order is restored.

Mr. MASON. I rise to a question of privilege. If there is again disorder in this chamber, I shall insist upon the galleries being cleared.

Mr. BROWN. I hope that order will be enforced. The Senate is not a theatre.

Mr. TOOMBS. The statement just made by the senator from Illinois is a great mistake, and I shall take issue with him when he sits down. I say it is not true in any sense, and I will answer it.

Mr. MASON. Mr. President——

The VICE PRESIDENT. The senator from Virginia gives notice that if there be a repetition of the demonstrations in the galleries he will move to clear them.

Mr. MASON. If there is again disorder in the galleries, let it arise from what source it may, I shall ask the Chair to enforce the order of the Senate.

The VICE PRESIDENT. Before the debate commenced, the Chair expressed the hope that these demonstrations would not occur. He did not then think that he would have to repeat the expression of that hope. This floor is covered by persons not members of the Senate, admitted by the consent of the body unanimously, and certainly something is due to the courtesy of the Senate. The Chair does not believe these demonstrations will be repeated, and therefore takes no further notice of what has occurred. The senator from Illinois will proceed.

Mr. DOUGLAS. The interposition of the denial that about one half of the counties were disfranchised, I presume, can have but very little weight on the argument. It has been proven over and over again. In my estimation the proof is conclusive as to the fifteen counties, and satisfactory, I think, as to nineteen, being half the counties of the Territory, that there was not such a census and registration as authorized a vote for delegates. It has been attempted to be proved, how-

ever, that there was not a great many votes in those counties. I believe the president of the convention estimates that there were not more than fifteen hundred or two thousand in those counties. Suppose that was all. There were only a little over two thousand votes polled at the election of delegates in the other nineteen counties which elected all the delegates. If the disfranchised counties contained fifteen hundred voters, is it not conclusive that, with the addition of five or six hundred persons in the other counties, they could have changed the result? Having been disfranchised in one-half the counties, the friends of those who were disfranchised may not have voted in the other counties, because they had no hope of overcoming the majority in the other half. I did not intend to go into the argument on that point again; and I should not have alluded to it now but for the fact that the Senator from South Carolina had to assume as true, what I understood not to be true, in order to predicate his answer upon it, that he, as a southern man, would vote to admit the State if the case had been reversed, and a free-State constitution was being forced upon an unwilling people, with the knowledge that it did not reflect the sentiments of that people.

Mr. HAMMOND. Allow me to say that, if the slaveholders, under these circumstances, had never had a majority at all, they would, nevertheless, have submitted until they could alter the constitution, if they could possibly do it.

Mr. DOUGLAS. I can only say, then, that they are a very submissive people. [Laughter.]

Mr. HAMMOND. Not at all.

Mr. DOUGLAS. I have never seen the day when I would be willing to submit to the action of a minority forcing a constitution on an unwilling people against their will because it had got an advantage. It violates the fundamental principle of government; it violates the foundations on which all free government rests; it is a proposition in violation of the democratic creed; in violation of the republican creed; in violation of the American creed; in violation of the creed of every party which professes to be governed by the principles of free institutions and fair elections.

Mr. HAMMOND. Will the senator allow me to say one word more? If the slaveholders, under the circumstances that he stated, were a minority, they would have submitted. If they were a majority, as I assume, they would have submitted until, under the forms of constitutional law, they could have properly asserted their power.

Mr. DOUGLAS. I understood the senator to say that; I must say to him that I would rather not repeat questions on the same point over and over again. I am very feeble to-night, and shall probably not have strength enough to go through with my remarks. I only desire to say on that point, that I regard the principle involved here as vital and fundamental, as lying at the foundation of all free government, and the violation of it as a death blow to State rights and State sovereignty. But, sir, I pass on. If you admit Kansas with the Lecompton constitution, you also admit her with the State government which has been brought into existence under it. Is the evidence satisfactory that that State government has been fairly and honestly elected?

Is the evidence satisfactory that the elections were fairly and honestly held, and fairly and honestly returned? You have all seen the evidence showing the fraudulent voting; the forged returns, from precinct after precinct, changing the result not only upon the legislative ticket, but also upon the ticket for Governor and State officers. The false returns in regard to Delaware Crossing, changing the complexion of the Legislature, are admitted. The evidence is equally conclusive as to the Shawnee precinct, the Oxford precinct, the Kickapoo precinct, and many others, making a difference of some three thousand votes in the general aggregate, and changing the whole result of the election. Yet, sir, we are called upon to admit Kansas with the State government thus brought into existence not only by fraudulent voting, but forged returns, sustained by perjury. The Senate well recollects the efforts that I made before the subject was referred to the committee, and since, to ascertain to whom certificates of election were awarded, that we might know whether they were given to the men honestly elected, or to the men whose elections depended upon forgery and perjury. Can any one tell me now to whom those certificates have been issued, if they have been issued at all? Can any man tell me whether we are installing, by receiving this State government, officers whose sole title depends upon forgery, or those whose title depends upon popular votes? We have been calling for that information for about three months, but we have called in vain. One day the rumor would be that Mr. Calhoun would declare the free-State ticket elected, and next day that he would declare the pro-slavery ticket elected. So it has alternated, like the chills and fever, day after day, until within the last three days, when the action of Congress became a little dubious, when it was doubtful whether Northern men were willing to vote for a State government depending on forgery and perjury, and then we find that the president of the Lecompton convention addresses a letter to the editor of the Star, a newspaper in this city, telling what he thinks is the result of the election. He says it is true that he has received no answer to his letters of inquiry to Governor Denver; he has no official information on the subject, but, from rumors and unofficial information, he is now satisfied that the Delaware Crossing return was a fraud; that it will be set aside; and that, accordingly, the result will be that certificates will be issued to the free-State men. I do not mean to deny that Mr. Calhoun may think such will be the result; but while he may think so, I would rather know how the fact is. His thoughts are not important, but the fact is vital in establishing the honesty or dishonesty of the State government which we are about to recognize. It so happens that Mr. Calhoun has no more power, no more authority over that question now, than the Senator from Missouri, or any other member of this body. The celebrated Lecompton schedule provides that—

"In case of removal, ABSENCE, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties; and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention."

As Mr. Calhoun is absent from the Territory, and, by reason of that absence, is deprived of all authority over the subject-matter, and as

the president *pro tempore* has succeeded to his powers, is it satisfactory for the deposed president to address a letter to the editor of the Star announcing his private opinion as to who has been elected? I should like to know who the president *pro tempore* is and where he is; and if he is in Kansas, whether he has arrived at the same conclusion which the ex-president Calhoun has announced. I should like to know whether that president *pro tempore* has already issued his certificate to the pro-slavery men in Kansas, while Mr. Calhoun expresses the opinion in the Star that the certificates will be issued to the free-State men? If that president *pro tempore* has become a fugitive from justice, and escaped from the Territory, I should like then to know who are the committee of seven that were to take his place; and whether they, or a majority of them, have arrived at the same conclusion to which Mr. Calhoun has come? Inasmuch as this opinion is published to the world just before the vote is to be taken here, and is expected to catch the votes of some green members of one body or the other, I should like to know whether certificates have been issued? and, if so, by whom, and to whom? where the president *pro tempore* is? where the committee of seven may be found? and then we might know who constitute the Legislature, and who constitute the State government, which we are to bring into being. We are not only to admit Kansas with a constitution, but with a State government; with a governor, a legislature, a judiciary; with executive, legislative, judicial, and ministerial officers. Inasmuch as we are told by the President, that the first legislature may take steps to call a convention to change the constitution, I should like to know of whom that legislature is composed? Inasmuch as the governor would have the power to veto an act of the legislature calling a convention, I should like to know who is governor, so that I may judge whether he would veto such an act? Cannot our good friends get the president *pro tempore* of the convention to write a letter to the Star? Can they not procure a letter from the committee of seven? Can they not clear up this mystery, and relieve our suspicious minds of anything unfair or foul in the arrangement of this matter? Let us know how the fact is.

This publication of itself is calculated to create more apprehension then there was before. As long as Mr. Calhoun took the ground that he would never declare the result until Lecompton was admitted, and that if it was not admitted, he would never make the decision, there seemed to be some reason in his course; but when, after taking that ground for months, it became understood that Lecompton was dead, or was lingering and languishing, and likely to die, and when a few more votes were necessary, and a pretext was necessary to be given, in order to secure them, we find this letter published by the deposed ex-president, giving his opinion when he had no power over the subject; and when it appears by the constitution itself that another man or another body of men has the decision in their hands, it is calculated to arouse our suspicions as to what the result will be after Lecompton is admitted.

Mr. President, in the course of the debate on this bill, before I was compelled to absent myself from the Senate on account of sickness, and I presume the same has been the case during my absence, much

was said on the slavery question in connection with the admission of Kansas. Many gentlemen have labored to produce the impression that the whole opposition to the admission arises out of the fact that the Lecompton constitution makes Kansas a slave State. I am sure that no gentleman here will do me the injustice to assert or suppose that my opposition is predicated on that consideration, in view of the fact that my speech against the admission of Kansas under the Lecompton constitution was made on the 9th of December, two weeks before the vote was taken upon the slavery clause in Kansas, and when the general impression was that the pro-slavery clause would be excluded. I predicated my opposition then, as I do now, upon the ground that it was a violation of the fundamental principles of government, a violation of popular sovereignty, a violation of the Democratic platform, a violation of all party platforms, and a fatal blow to the independence of the new States. I told you then that you had no more right to force a free-State constitution upon a people against their will than you had to force a slave-State constitution. Will gentlemen say that, on the other side, slavery has no influence in producing that united, almost unanimous support which we find from gentlemen living in one section of the Union in favor of the Lecompton constitution? If slavery had nothing to do with it, would there have been so much hesitation about Mr. Calhoun's declaring the result of the election prior to the vote in Congress? I submit, then, whether we ought not to discard the slavery question altogether, and approach the real question before us fairly, calmly, dispassionately, and decide whether, but for the slavery clause, this Lecompton constitution could receive a single vote in either House of Congress. Were it not for the slavery clause, would there be any objection to sending it back to the people for a vote? Were it not for the slavery clause, would there be any objection to letting Kansas wait until she had ninety thousand people, instead of coming into the Union with not over forty-five or fifty thousand? Were it not for the slavery question, would Kansas have occupied any considerable portion of our thoughts? would it have divided and distracted political parties so as to create bitter and acrimonious feelings? I say now to our southern friends, that I will act on this question on the right of the people to decide for themselves, irrespective of the fact whether they decide for or against slavery, provided it be submitted to a fair vote at a fair election, and with honest returns.

In this connection there is another topic to which I desire to allude. I seldom refer to the course of newspapers, or notice the articles which they publish in regard to myself; but the course of the Washington Union has been so extraordinary, for the last two or three months, that I think it well enough to make some allusion to it. It has read me out of the Democratic party every other day, at least, for two or three months, and keeps reading me out, (laughter:) and, as if it had not succeeded, still continues to read me out, using such terms as "traitor," "renegade," "deserter," and other kind and polite epithets of that nature. Sir, I have no vindication to make of my democracy against the Washington Union, or any other newspapers. I willing am to allow my history and action for the last twenty years to

speak for themselves as to my political principles, and my fidelity to political obligations. The Washington Union has a personal grievance. When its editor was nominated for Public Printer I declined to vote for him, and stated that at some time I might give my reasons for doing so. Since I declined to give that vote, this scurrilous abuse, these vindictive and constant attacks have been repeated almost daily on me. Will my friend from Michigan read the article to which I allude.

Mr. STUART read the following editorial article from the Washington Union of November 17, 1857:

FREE SOILISM.—The primary object of all government, in its original institution, is the protection of person and property. It is for this alone that men surrender a portion of their natural rights.

"In order that this object may be fully accomplished, it is necessary that this protection should be equally extended to all classes of free citizens without exception. This, at least, is a fundamental principle of the Constitution of the United States, which is the original compact on which all our institutions are based.

"Slaves were recognized as property in the British colonies of North America by the government of Great Britain, by the colonial laws and by the Constitution of the United States. Under these sanctions vested rights have accrued to the amount of some sixteen hundred million dollars. It is, therefore, the duty of Congress and the State legislature to protect that property.

"The Constitution declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.' Every citizen of one State coming into another State has, therefore, a right to the protection of his person, and that property which is recognized as such by the Constitution of the United States, any law of a State to the contrary notwithstanding. So far from any State having a right to deprive him of this property, it is its bounden duty to protect him in its possession.

"If these views are correct—and we believe it would be difficult to invalidate them—it follows that all State laws, whether organic or otherwise, which prohibit a citizen of one State from settling in another, and bringing his slave property with him, and most especially declaring it forfeited, are direct violations of the original intention of a government which, as before stated, is the protection of person and property, and of the Constitution of the United States, which recognizes property in slaves, and declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' among the most essential of which is the protection of person and property,

"What is recognized as property by the Constitution of the United States, by a provision which applies equally to all the States, has an inalienable right to be protected in all the States." * * * * * * * * *

"The protection of property being, next to that of person, the most important object of all good government, and property in slaves being recognized by the Constitution of the United States, as well as originally by all the old thirteen States, we have never doubted that the emancipation of slaves in those States where it previously existed, by an arbitrary act of the legislature, was a gross violation of the rights of property." * *

"*The emancipation of the slaves of the Northern States was then, as previously stated, a gross outrage on the rights of property*, inasmuch as it was not a voluntary relinquishment on the part of the owners. It was an act of coercive legislation." * * * *

"This measure of emancipation was the parent or the offspring of a doctrine which may be so extended as to place the property of every man in the community at the mercy of rabid fanaticism or political expediency. It is only to substitute scruples of conscience in place of established constitutional principle, and all laws and all constitutions become a dead letter. The rights of persons and property become subservient, not to laws and constitutions, but to fanatical dogmas, and thus the end and object of all good government is completely frustrated. There is no longer any rule of law nor any constitutional guide; and the people are left to the discretion, or rather the madness, of a school of instructors who can neither comprehend their own dogmas nor make them comprehensible to others." * * * * * * * * *

"Where is all this to end? and what security have the free citizens of the United States that their dearest rights may not, one after another, be offered up at the shrine of the demon of fanaticism, the most dangerous of all the enemies of freedom? If the Constitution is no longer to be our guide and protector, where shall we find barriers to defend us against a system of legislation restrained by no laws and no constitutions, which creates crimes at pleasure, punishes them at will, and sacrifices the rights of persons and

property to a dogma, or a scruple of conscience? All this is but the old laws of Puritanism now fomenting and souring in the exhausted beer-barrel of Massachusetts. The descendants of this race of ecclesiastical tyrants, or rather ecclesiastical slaves, have spread over the western part of the State of New York, and throughout all the new States, where they have, to some extent, disseminated their manners, habits, and principles, most especially their blind subserviency to old idols, and their abject subjection to their priests. There is no doubt that they aspire to give tone and character to the whole confederacy, and believe that their dream will be realized? We are pretty well convinced, however, that the people of the United States will never become a nation of fanatical Puritans."

Mr. DOUGLAS. Mr. President, you here find several distinct propositions advanced boldly by the Washington Union editorially and apparently authoritatively, and every man who questions any of them is denounced as an abolitionist, a free-soiler, a fanatic. The propositions are, first, that the primary object of all government at its original institution is the protection of person and property; second, that the Constitution of the United States declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; and that, therefore, thirdly, all State laws, whether organic or otherwise, which prohibit the citizens of one State from settling in another with their slave property, and especially declaring it forfeited, are direct violations of the original intention of the government and Constitution of the United States; and fourth, that the emancipation of the slaves of the northern States was a gross outrage on the rights of property, inasmuch as it was involuntarily done on the part of the owner.

Remember that this article was published in the Union on the 17th of November, and on the 18th appeared the first article giving the adhesion of the Union to the Lecompton constitution. It was in these words:

"KANSAS AND HER CONSTITUTION.—The vexed question is settled. The problem is solved. The dread point of danger is passed. All serious trouble to Kansas affairs is over and gone."——

and a column nearly of the same sort. Then, when you come to look into the Lecompton constitution, you find the same doctrine incorporated in it which was put forth editorially in the Union. What is it?

"ARTICLE 7. *Section* 1. The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same and as inviolable as the right of the owner of any property whatever."

Then in the schedule is a provision that the constitution may be amended after 1864 by a two-thirds vote,

"But no alteration shall be made to affect the right of property in the ownership of slaves.'

It will be seen by these clauses in the Lecompton constitution, that they are identical in spirit with this authoritative article in the Washington Union of the day previous to its indorsement of this constitution, and every man is branded as a free-soiler and abolitionist who does not subscribe to them. The proposition is advanced that the emancipation acts of New York, of New England, of Pennsylvania, and of New Jersey, were unconstitutional, were outrages upon the right of property, were violations of the Constitution of the United States. The proposition is advanced that a southern man has a right to move from South Carolina, with his negroes, into Illinois, to settle there and hold them there as slaves, anything in the constitution and laws of Illinois to the contrary, notwithstanding. The proposition is,

that a citizen of Virginia has rights in a free State, which a citizen of a free State cannot himself have. We prohibit ourselves from holding slaves within our own limits; and yet, according to this doctrine, a citizen of Kentucky can move into our State, bring in one hundred slaves with him, and hold them as such in defiance of the constitution and laws of our own State. If that proposition is true, the creed of the democratic party is false. The principle of the Kansas-Nebraska bill is, that "each State and each Territory shall be left perfectly free to form and regulate its domestic institutions in its own way, subject only to the Constitution of the United States." I claim that Illinois has the sovereign right to prohibit slavery, a right as undeniable as that the sovereignty of Virginia may authorize its existence. We have the same right to prohibit it that you have to recognize and protect it. Each State is sovereign within its own sphere of powers, sovereign in respect to its own domestic and local institutions and internal concerns. So long as you regulate your local institutions to suit yourselves, we are content; but when you claim the right to override our laws and our constitution, and deny our right to form our institutions to suit ourselves, I protest against it. The same doctrine is asserted in this Lecompton constitution. There, it is stated that the right of property in slaves is "before and higher than any constitutional sanction."

Mr. President, I recognize the right of the slaveholding States to regulate their local institutions, to claim the services of their slaves under their own State laws, and I am prepared to perform each and every one of my obligations under the Constitution of the United States in respect to them; but I do not admit, and I do not think they are safe in asserting, that their right of property in slaves is higher than and above constitutional sanction, is independent of constitutional obligations. When you rely upon the Constitution and upon your own laws, you are safe. When you go beyond and above constitutional obligations, I know not where your safety is. If this doctrine be true, that slavery is higher than the Constitution, and above the Constitution, it necessarily follows that a State cannot abolish it, cannot prohibit it, and the doctrine of the Washington Union, that the emancipation laws were outrages on the rights of property, and violations of the Constitution, becomes the law.

When I saw that article in the Union of the 17th of November, followed by the glorification of the Lecompton constitution on the 18th of November, and this clause in the constitution asserting the doctrine that no State has a right to prohibit slavery within its limits, I saw that there was a fatal blow being struck at the sovereignty of the States of this Union, a death blow to State rights, subversive of the democratic platform and of the principles upon which the democratic party have ever stood, and upon which I trust they ever will stand. Because of these extraordinary doctrines, I declined to vote for the editor of the Washington Union for public printer; and for that refusal, as I suppose, I have been read out of the party by the editor of the Union at least every other day from that time to this. Sir, I submit the question: Who has deserted the democratic party and the democratic platform—he who stands by the

sovereign right of the State to abolish and prohibit slavery as it pleases, or he who attempts to strike down the sovereignty of the States, and combine all power in one central government, and establish an empire instead of a confederacy?

The principles upon which the presidential campaign of 1856 was fought are well known to the country. At least, in Illinois, I think I am authorized to state what they were with clearness and precision, so far as the slavery question is concerned. The democracy of Illinois are prepared to stand on the platform upon which the battle of 1856 was fought. It was—

First. The migration or importation of negroes into the country having been prohibited since 1808, never again to be renewed, each State will take care of its own colored population.

Second. That while negroes are not citizens of the United States, and hence not entitled to political equality with whites, they should enjoy all the rights, privileges, and immunities which they are capable of exercising, consistent with the safety and welfare of the community where they live.

Third. That each State and Territory must judge and determine for itself of the nature and extent of its rights and privileges.

Fourth. That while each free State should and will maintain and protect all the rights of the slaveholding States, they will, each for itself, maintain and defend its sovereign right within its own limits, to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States.

Fifth. That in the language of Mr. Buchanan's letter of acceptance of the presidential nomination, the Nebraska-Kansas act does no more than give the form of law to this elementary principle of self-government, when it declares "that the people of a Territory, like those of a State, shall decide for themselves whether slavery shall or shall not exist within their limits."

These were the general propositions on which we maintained the canvass on the slavery question—the right of each State to decide for itself; that a negro should have such rights as he was capable of enjoying, and could enjoy, consistently with the safety and welfare of society; and that each State should decide for itself the nature and extent and description of those rights and privileges. Hence, if you choose in North Carolina to have slaves, it is your business, and not ours. If we choose in Illinois to prohibit slavery, it is our right, and you must not interfere with it. If New York chooses to give privileges to the negro which we withhold, it is her right to extend them, but she must not attempt to force us to do the same thing. Let each State take care of its own affairs, mind its own business, and let its neighbors alone, then there will be peace in the country. Whenever you attempt to enforce uniformity, and, judging that a peculiar institution is good for you, and therefore good for everybody else, try to force it on everybody, you will find that there will be resistance to the demand. Our government was not formed on the idea that there was to be uniformity of local laws or local institutions. It was founded

upon the supposition that there must be diversity and variety in the institutions and laws. Our fathers foresaw that the local institutions which would suit the granite hills of New Hamshire would be ill adapted to the rice plantations of South Carolina. They foresaw that the institutions which would be well adapted to the mountains and valleys of Pennsylvania would not suit the plantation interests of Virginia. They foresaw that the great diversity of climate, of production, of interests, would require a corresponding diversity of local laws and local institutions. For this reason they provided for thirteen separate States, each with a separate legislature, and each State sovereign within in own sphere, with the right to make all its local laws and local institutions to suit itself, on the supposition that they would be as different and as diversified as the number of States themselves. Then the general government was made, with a Congress having limited and specified powers, extending only to those subjects which were national and not local, which were federal and not State.

These were the principles on which our institutions were established. These are the principles on which the democratic party has ever fought its battles. This attempt now to establish the doctrine that a free State has no power to prohibit slavery, that our emancipation acts were unconstitutional and void, that they were outrages on the rights of property, that slavery is national and not local, that it goes everywhere under the Constitution of the United States, and yet is higher than the Constitution, above the Constitution, beyond the reach of sovereign power, existing by virtue of that higher law proclaimed by the Senator from New York, will not be tolerated. When the doctrine of a higher law, a law above the Constitution, a law over-riding the Constitution, and imposing obligations upon public men in defiance of the Constitution, was first proclaimed in the Senate, it was deemed moral treason in this body; but now I am read out of the party three times a week by the Washington Union for disputing this higher law, which is embodied in the Lecompton constitution, that slavery, the right to slavery property, does not depend upon human law nor constitutional sanction, but is above and beyond and before all constitutional sanctions and obligations! I feel bound, as a Senator from a sovereign State, to repudiate and rebuke this doctrine. I am bound as a Democrat, bound as an American citizen, bound as a Senator claiming to represent a sovereign State, to enter my protest, and the protest of my constituency, against such a doctrine. Whenever such a doctrine shall be ingrafted on the policy of this country, you will have revolutionized the government, annihilated the sovereignty of the States, established a consolidated despotism with uniformity of local institutions, and that uniformity being slavery, existing by Divine right, and a higher law beyond the reach of the Constitution and of human authority.

Mr. President, if my protest against this interpolation into the policy of this country, or the creed of the Democratic party is to bring me under the ban, I am ready to meet the issue. I am told that this Lecompton constitution is a party test, a party measure; that no man is a Democrat who does not sanction it, who does not vote to

bring Kansas into the Union with the government established under that constitution. Sir, who made it a party test? Who made it a party measure? Certainly the party has not assembled in convention to ordain any such thing to be a party measure. I know of but one State convention that has endorsed it. It has not been declared to be a party measure by State conventions or by a national convention, or by a senatorial caucus, or by a caucus of the Democratic members of the House of Representatives. How, then, came it to be a party measure? The Democratic party laid down its creed at its last national convention. That creed is unalterable for four years, according to the rules and practices of the party. Who has interpolated this Lecompton constitution into the party platform?

Oh! but we are told it is an Administration measure. Because it is an Administration measure, does it therefore follow that it is a party measure? Is it the right of an Administration to declare what are party measures and what are not? That has been attempted heretofore, and it has failed. When John Tyler prescribed a creed to the Whig party, his right to do so was not respected. When a certain doctrine in regard to the neutrality laws was proclaimed to be a party measure, my friends around me here considered it a "grave error," and it was not respected. When the army bill was proclaimed an Administration measure, the authority to make it so was put at defiance, and the Senate rejected it by a vote of four to one, and the House of Representatives voted it down by an overwhelming majority. Is the Pacific railroad bill a party measure? I should like to see whether the guillotine is to be applied to every recreant democrat who does not come up to that test. Is the bankrupt law a party measure? We shall see, when the vote is taken, how many renegades there will be then. Was the loan bill an administration measure, or a party measure? Is the guillotine to be applied to every one who does not yield implicit obedience to the behests of an administration in power? There is infinitely more plausibility in declaring each of the measures to which I have just alluded to be an administration measure, than in declaring the Lecompton constitution to be such. By what right does the administration take cognizance of the Lecompton constitution?

The Constitution of the United States says that "new States may be admitted into the Union by the Congress;" not by the President, not by the cabinet, not by the administration. The Lecompton constitution itself says, "this constitution shall be submitted to the Congress of the United States at its next session;" not to the President, not to the cabinet, not to the administration. The convention in Kansas did not send it to the administration, did not authorize it to be sent to the President, but directed it to be sent to Congress; and the President of the United States only got hold of it through the commission of the surveyor general, who was also president of the Lecompton convention. The constitution as made was ordered to be sent directly to Congress; Congress having power to admit States, and the President having nothing to do with it. The moment you pass a law admitting a State it executes itself. It is not a law to be executed by the President or by the administration. It is the last measure on earth that could be

rightfully made an administration measure. It is not usual for the constitution of a new State to come to Congress through the hand of the President. True, the Minnesota constitution was sent to the President because the convention of Minnesota directed it to be so sent; and the President submitted it to us without any recommendation. Because senators and representatives do not yield their judgments and their consciences, and bow in abject obedience to the requirements of an Administration in regard to a measure on which the administration are not required to act at all, a system of proscription, of persecution is to be adopted against every man who maintains his self-respect, his own judgment and his own conscience.

I do not recognize the right of the President or his cabinet, no matter what my respect may be for them, to tell me my duty in the senate chamber. The President has his duties to perform under the Constitution; and he is responsible to his constituency. A senator has his duties to perform here under the Constitution and according to his oath; and he is responsible to the sovereign State which he represents as his constituency. A member of the House of Representatives has his duties under the Constitution and his oath; and he is responsible to the people that elected him. The President has no more right to prescribe tests to senators than senators have to the President; the President has no more right to prescribe tests to the representatives than the representatives have to the President. Suppose we here should attempt to prescribe a test of faith to the President of the United States, would he not rebuke our impertinence and impudence as subversive of the fundamental principle of the Constitution? Would he not tell us that the Constitution and his oath and his conscience were his guide; that we must perform our duties, and he would perform his, and let each be responsible to his own constituency?

Sir, whenever the time comes that the President of the United States can change the allegiance of the senators from the States to himself, what becomes of the sovereignty of the States? When the time comes that a senator is to account to the executive and not to his State, whom does he represent? If the will of my State is one way and the will of the President is the other, am I to be told that I must obey the executive and betray my State, or else be branded as a traitor to the party, and hunted down by all the newspapers that share the patronage of the government? and every man who holds a petty office in any part of my State to have the question put to him, "Are you Douglas' enemy?" if not, "your head comes off." Why? "Because he is a recreant senator; because he chooses to follow his judgment and his conscience, and represent his State instead of obeying my executive behest." I should like to know what is the use of Congresses; what is the use of Senates and Houses of Representatives, when their highest duty is to obey the executive in disregard of the wishes, rights, and honor of their constituents? What despotism on earth would be equal to this, if you establish the doctrine that the executive has a right to command the votes, the consciences, the judgment of the senators and of the representatives, instead of their constituents? In old England,

whose oppressions we thought intolerable, an administration is hurled from power in an hour when voted down by the representatives of the people upon a government measure. If the rule of old England applied here, this cabinet would have gone out of office when the army bill was voted down, the other day, in the House of Representatives. There, in that monarchical country, where they have a queen by divine right, and lords by the grace of God, and where republicanism is supposed to have but a slight foothold, the representatives of the people can check the throne, restrain the government, change the ministry, and give a new direction to the policy of the government, without being accountable to the king or the queen. There the representatives of the people are responsible to their constituents. Across the channel, under Louis Napoleon, it may be otherwise; yet I doubt whether it would be so boldly proclaimed there that a man is a traitor for daring to vote according to his sense of duty, according to the will of his State, according to the interests of his constituents.

Suppose the executive should tell the senator from California [Mr. GWIN] to vote against his Pacific railroad bill; would he obey? If not, he will be deemed a rebel. Suppose the executive should tell the senator from Virginia [Mr. MASON] to vote for the Pacific railroad bill, or the senator from Georgia [Mr. TOOMBS] to vote for the army bill, or the senator from Mississippi [Mr BROWN] to sustain him on the neutrality laws: we should have more rebels and more traitors. But it is said a dispensation is granted, from the fountain of all power, for rebellion on all subjects but one. The President says, in effect, "Do as you please on all questions but one;" that one is Lecompton. On what principle is it that we must not judge for ourselves on this measure, and may on everything else? I suppose it is on the old adage that a man needs no friends when he knows he is right, and he only wants his friends to stand by him when he is wrong. The President says that he regrets this constitution was not submitted to the people, although he knows that if it had been submitted it would have been rejected. Hence the President regrets that it was not rejected. Would he regret that it was not submitted and rejected if he did not think it was wrong? And yet he demands our assistance in forcing it on an unwilling people, and threatens vengeance on all who refuse obedience. He recommends the army bill; he thinks it necessary to carry on the Mormon war, it is necessary to carry out a measure of the administration, and hence it is an administration measure; but he does not quarrel with anybody for voting against it. He thinks every one of the other recommendations to which I have alluded is right, and, therefore, there is no harm in going against them. The only harm is in going against that which the President acknowledges to be wrong; and yet the system of proscription, to subdue men to abject obedience to executive will, is to be pursued.

Is it seriously intended to brand every democrat in the United States as a traitor who is opposed to the Lecompton constitution? If so, do your friends in Pennsylvania desire any traitors to vote with them next fall? We are traitors if we vote against Lecompton, our constituents

are traitors if they do not think Lecompton is right, and yet you expect those whom you call traitors to vote with and sustain you. Are you to read out of the party every man who thinks it wrong to force a constitution on a people against their will? If so, what will be the size of the administration party in New York? what will it be in Pennsylvania? how many will it number in Ohio, or in Indiana, or in Illinois, or in any other Northern State? Surely you do not expect the support of those whom you brand as renegades! Would it not be well to allow all freemen freedom of thought, freedom of speech, and freedom of action? Would it not be well to allow each senator and representative to vote according to his judgment, and perform his duty according to his own sense of his obligation to himself, and to his State, and to his God?

For my own part, Mr. President, come what may, I intend to vote, speak, and act, according to my own sense of duty, so long as I hold a seat in this Chamber. I have no defence of my democracy. I have no professions to make of my fidelity. I have no vindication to make of my course. Let it speak for itself. The insinuation that I am acting with the republicans, or Americans, has no terror, and will not drive me from my duty or propriety. It is an argument for which I have no respect. When I saw the senator from Virginia acting with the republicans on the neutrality laws, in support of the President, I did not feel it to be my duty to taunt him with voting with those to whom he happened to be opposed in general politics. When I saw the senator from Georgia acting with the republicans upon the army bill, it did not impair my confidence in his fidelity to principle. When I see senators here every day acting with the republicans on various questions, it only shows me that they have independence and self-respect enough to go according to their own convictions of duty, without being influenced by the course of others.

I have no professions to make upon any of these points. I intend to perform my duty in accordance with my own convictions. Neither the frowns of power nor the influence of patronage will change my action, or drive me from my principles. I stand firmly, immovably upon those great principles of self-government and State sovereignty upon which the campaign was fought and the election won. I stand by the time-honored principles of the democratic party, illustrated by Jefferson and Jackson, those principles of State rights, of State sovereignty, of strict construction, on which the great democratic party has ever stood. I will stand by the Constitution of the United States, with all its compromises, and perform all my obligations under it. I will stand by the American Union as it exists under the Constitution. If, standing firmly by my principles, I shall be driven into private life, it is a fate that has no terrors for me. I prefer private life, preserving my own self-respect and manhood, to abject and servile submission to executive will. If the alternative be private life or servile obedience to executive will, I am prepared to retire. Official position has no charms for me when deprived of that freedom of thought and action which becomes a gentleman and a senator.

Mr. President, I owe an apology to the Senate for the desultory

manner in which I have discussed this question. My health has been so feeble for some time past that I have not been able to arrange my thoughts, or the order in which they should be presented. If, in the heat of debate, I have expressed a sentiment which would seem to be unkind or disrespectful to any senator, I shall regret it. While I intend to maintain, firmly and fearlessly, my own views, far be it from me to impugn the motives or question the propriety of the action of any other senator. I take it for granted that each senator will obey the dictates of his own conscience, and will be accountable to his constituents for the course which he may think proper to pursue.